

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re AMERICAN REALTY CAPITAL  
PROPERTIES, INC. LITIGATION

Civil Action No. 1:15-mc-00040-AKH

ETON PARK FUND, L.P., et al.,

Plaintiffs,

vs.

AMERICAN REALTY CAPITAL  
PROPERTIES, INC., et al.,

Defendants.

Civil Action No. 1:16-cv-09393-AKH

**NOTICE OF MOTION TO DISMISS OF DEFENDANTS AMERICAN REALTY  
CAPITAL PROPERTIES, INC. AND ARC PROPERTIES OPERATING  
PARTNERSHIP, L.P.**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Motion to Dismiss of Defendants American Realty Capital Properties, Inc. and ARC Properties Operating Partnership, L.P. (collectively, the “ARCP Defendants”), and upon all prior proceedings had herein, the ARCP Defendants, by their undersigned attorneys, will move before the Honorable Alvin K. Hellerstein, United States District Judge, United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, 10007, Courtroom 14D, at a date and time to be determined by the Court, for an order (a) dismissing Counts IV and VI of the Complaint in *Eton Park Fund, L.P., et al. v. American Realty Capital Properties, Inc., et al.*, No. 1:16-cv-09393-AKH, pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, (b) dismissing any Count asserted against the ARCP Defendants on the grounds

urged by the other defendants in this action, to the extent applicable, and (c) granting the ARCP Defendants such further and other relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Civ. R. 6.1(b), any opposing affidavits, answering memoranda of law, or other response shall be filed and served no later than February 24, 2017.

Dated: February 10, 2017  
New York, New York

Respectfully submitted,

/s/ Scott A. Edelman  
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